

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-077-00320R

Parcel No. 270/2496-003-000

James Saluri,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 21, 2020. James Saluri was self-represented. Assistant Polk County Attorney Dave Hibbard represented the Board of Review.

James Saluri owns a residential property located at 5820 NE 11th Court, Des Moines, Iowa. The property's January 1, 2019, assessment was set at \$252,000, allocated as \$60,400 in land value and \$191,600 in dwelling value. (Ex. A).

Saluri petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property. Iowa Code § 441.37(1)(a)(1) (2019). (Ex. C). The Board of Review denied his petition. (Ex. B).

Saluri appealed to PAAB reasserting his home was inequitably assessed and also that it was assessed for more than authorized by law. § 441.37(1)(a)(1 & 2).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a split-level home built in 1992. It has 1500 square feet of gross living area, with 780 square feet of living-quarter-quality basement finish, an enclosed porch, an open porch, and a deck. It is listed in normal condition with average-quality construction (grade 4+10); the home receives 14% physical depreciation. There is also a detached garage with 27% depreciation. The site is 0.924 acres. (Ex. A).

Saluri purchased the property in 2013 for \$209,000. (Ex. A). He provided the signature page of an appraisal report prepared for financing in 2013 that opined a market value at that time of \$210,000. (Ex. 7). He has not obtained a more recent appraisal.

Saluri protested his 2017 assessment, which was then lowered by the Board of Review to \$220,000. (Ex. 6). He testified there have been no updates to his home in the

last two years and provided pictures demonstrating his kitchen and baths are original, several of his windows are deteriorating, and his siding has damage. (Exs. 8-36). He believes his assessment should remain at the 2018 value of \$220,000.

Saluri submitted three homes he believes demonstrate his assessment is not equitable, which are summarized in the following table. (Exs. 1-3).

Address	Design	Grade	Gross Living Area (SF)	Basement Finish (SF)	2019 Assessed Value
Subject	Split-Level	4+10	1500	780	\$252,000
1 – 5898 NE 6th St	1-Sty	3-10	1358	0	\$222,900
2 – 5840 NE 11th Ct	1-Sty	4+00	1132	0	\$192,600
3 – 5817 NE 9th St	1-Sty	4+05	1638	0	\$220,700

At PAAB's request, the Board of Review submitted the Market Adjusted Cost Reports for each of Saluri's comparable properties. (Exs. D-F).

None of the properties have recently sold. All are located near the subject and are similar in age and site size, although the subject site is the largest. All of the comparables are one-story homes compared to the subject's split-level design. Some have smaller sites and garages. None of Saluri's comparable properties have basement finish. This feature alone accounts for a difference of \$27,784, before depreciation, in the subject's assessment as compared to the other properties. (Ex. A). Similarly, none of the comparables have an enclosed porch or a fireplace (functioning or not) like the subject. These features add approximately \$14,000, before depreciation, to the assessment of the subject. The subject also has the largest garage. All of these factors contribute to the subject's higher assessment when compared to these properties.

Saluri also questioned the listing of basement finish in his assessment. He indicated he was under the impression that without egress windows, finished space in the basement could not be counted as living area. For Saluri's benefit, we note the finished space may be listed as living area; typically to be considered a bedroom on the lower level the room usually has egress.

The Board of Review offered no testimony.

Analysis & Conclusions of Law

Saluri contends the subject property is inequitably assessed and over assessed. § 441.37(1)(a)(1 & 2). Saluri bears the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Saluri offered no evidence of the Assessor applying an assessment method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019 assessments) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* Saluri submitted three properties he believes support his claim, none of which sold in 2018. Accordingly, the *Maxwell* test cannot be completed.

We note Saluri's comparables generally had smaller sites, smaller attached garages, did not have any basement finish, and lacked other amenities that his property possesses such as fireplaces and an enclosed porch. These differences resulted in lower assessed values compared to his property.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sale prices of the subject property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b).

The subject property has not recently sold, nor did Saluri provide any evidence of the property's current value through comparable sales adjusted for differences, an appraisal, or a Comparable Market Analysis (CMA), which is typical evidence to support a claim of over assessment.

Because Saluri believes there are issues in his property's condition including the functionality of his fireplace and type of exterior siding he may wish to contact the Assessor's Office and request an inspection prior to the next assessment to ensure his improvements are properly listed.

Viewing the record as a whole, we conclude that Saluri failed to show his property is either inequitably assessed or over assessed.

Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order¹ and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2019).



Elizabeth Goodman, Board Member



Dennis Loll, Board Member



Karen Oberman, Board Member

Copies to:

James Saluri by eFile

Polk County Board of Review by eFile

¹ Due to the State Public Health Disaster Emergency caused by the coronavirus (COVID-19), the deadline for filing a judicial review action may be tolled pursuant to orders from the Iowa Supreme Court. Please visit the Iowa Judicial Branch website at <https://www.iowacourts.gov/iowa-courts/supreme-court/orders/> for the most recent Iowa Supreme Court orders.